

STATE OF INDIANA)
)
COUNTY OF MARION)
)
In Re Local Criminal Rules)

MARION CIRCUIT AND SUPERIOR
COURTS

Order Proposing Local Criminal Rules Amendments, Finding Good Cause to Deviate from the Schedule for Amending Local Court Rules, and Requesting Comments

The Judges of the Marion County Courts, pursuant to Trial Rule 81(D), now find that good cause exists to deviate from the schedule established by the Division of State Court Administration for the publishing of local rules and propose that the following local administrative rule amendments be adopted in compliance with the provisions of Trial Rule 81. Accordingly, the Court issues the following proposed amendments to the Administrative Local Rules and asks for comment from the bar and the public. Underlining indicates proposed additions and striking through indicates deletions.

Comments to these proposed Local Rules will be received through Noon on July 30, 2008. Comments to these proposed Local Rules should be e-mailed to the Office of the Court Administrator, c/o Glenn Lawrence, at Glawrenc@indygov.org, or mailed to:

Glenn Lawrence
Office of the Court Administrator
Marion County Circuit and Superior Courts
200 East Washington St., Ste. T-1221
Indianapolis, IN 46204.

All of the above is so ORDERED this 30th day of June, 2008.

/s/ Gerald S. Zore*
Judge Gerald S. Zore
Presiding Judge

* Original signature on file with the Court.

LR49-CR00-115. FEES

- A. In addition to costs as set by I.C. 33-37-4-1 whenever an individual is placed on probation, or without placing a person on probation the following fees and costs shall be imposed under the ~~Probation Court or Probation~~ Order unless the sentencing Judge specifically modifies the Order. The fees and costs collected under the Court or Probation Order shall be applied in this order of priority.

Administrative fee

Probation User fee

Alcohol and Drug Service fee (33-37-5-8)

Court Costs (I.C. 33-37-4-1)

Restitution (35-50-5-3)

Public Defender Reimbursement * (35-33-7-6)

Safe School fee (I.C. 33-37-5-18)

Child Abuse Prevention fee (I.C. 33-37-5-12)

Drug Interdiction fee (I.C. 33-37-5-9)

Alcohol Countermeasures fee (I.C. 33-37-5-10)

Domestic Violence fee (33-37-5-13)

(*Fee imposed only after judicial determination of ability to pay)

In the event that these specific fees, or any other court ordered fees, are not paid, the Court may enter judgment against the individual and may seek appropriate steps to collect the judgment owed.

- B. Whenever a juvenile is placed on probation from Juvenile Court the following fees and costs shall be imposed under the appropriate Court Order unless the Judge presiding over the case specifically modifies the Order. The fees and costs collected under the Order shall be applied in this order of priority.

Probation Administrative Fee

Probation User Fee

Restitution

Public Defenders Fee

Court Costs

In the event that these specific fees, or any other court ordered fees, are not paid, the Court may enter judgment against the individual and may seek appropriate steps to collect the judgment owed.

- C. Whenever a person is ordered by any Judicial Officer of the Marion Superior Court to be tested by the Marion Superior Court Drug Testing Laboratory, an appropriate fee shall be paid at the time of testing. The Marion County Drug Lab shall collect said fee and all such fees shall be Probation Department funds.

If a confirmatory test is requested by an individual, an appropriate fee shall be paid at the time of testing. The Judicial Officer ordering an individual for drug testing retains the authority to determine that individual is indigent and order a waiver of the testing fee.

D. All individuals ordered into the Marion County Alcohol and Drug Program or the Marion Superior Court Drug Treatment program may be charged up to a maximum provided for by Indiana Code 12-23-14-16.

LR49-CR2.2-100. RANDOM ASSIGNMENT

(a) All criminal cases filed in Marion County in the Superior Courts shall be assigned to an individual courtroom on a random basis. The random assignment rule for criminal cases does not apply to certain cases designated by the Court and Prosecutor as belonging in the:

- domestic violence courts; or
- major felony and class D felony drug court; or
- community court; or
- traffic court; or
- those cases involved in case consolidation noted below.

This rule strives for the equalization of caseload among all of the individual courtrooms.

(b) All hearings for Major Felony cases will be conducted in the Major Felony Court. Any new filing for a major felony case shall be randomly assigned to one of the multiple courtrooms designated as Major Felony Courts (G01, G02, G03, G04, G05, G06 and G22) with the exception of a major felony drug offense case, and a major felony handgun case which shall be ~~randomly~~ assigned to ~~major felony drug courts~~ G20 and G23 as follows:

- handgun cases shall be randomly assigned to courts G20 and G23.
- D Felony drug cases that have been amended to include a class A B or C Felony charge, shall be transferred to courts G20 or G23 on an alternating basis.
- All originally filed A B or C felony drug cases shall be filed in court G20 or G23 based on the law enforcement division investigating or making the arrest in the case according to the table below. In the event arrest involves multiple law enforcement agencies or an agency not listed below the case shall be randomly assigned to courts G20 and G23.

<u>G20</u>	<u>G23</u>
<u>Law Enforcement Agency</u>	<u>Law Enforcement Agency</u>
<u>IMPD Dangerous Drug Unit</u>	<u>IMPD Interdiction Unit</u>
<u>IMPD Gang Unit and Violent Crimes Unit</u>	<u>IMPD North District narcotics (and NRO) Unit</u>
<u>Metro Drug task Force</u>	<u>IMPD Southwest District Narcotics (and NRO) Unit</u>
<u>IMPD Southeast Narcotics (and NRO) Unit</u>	<u>IMPD Northeast District Narcotics (and NRO) Unit</u>
<u>Beech Grove Police Department</u>	<u>Indiana State Police Drug Enforcement Section</u>
<u>IMPD Northwest District Narcotics (and NRO) Unit</u>	<u>Lawrence Police Department</u>
<u>Speedway police Department</u>	

courts G20 and G23.

(c) Initial hearings for all Class D Felony Cases that are the result of a custodial

arrest where the defendant is still in custody shall be conducted in the Initial Hearing Court (F11). These cases shall be subsequently assigned on a random basis to one of the multiple courtrooms designated as Class D Felony Courts (F09, F15, F18 and F24). The random assignment rule for criminal cases does not apply to D felony cases involving allegations of domestic violence or to Class D felony cases designated as drug court cases. Cases involving an allegation of domestic violence shall be randomly assigned to either of the domestic violence courts (G16 and G17). Class D felony drug cases shall be assigned to the D felony drug court (G14).

(d) Initial hearings for cases involving Misdemeanor Cases that are a result of a custodial arrest where the defendant is still in custody shall be conducted in the Initial Hearing Court, Court 11. These cases shall be assigned on a random basis to one of the multiple courtrooms designated as Misdemeanor Courts (F07, F08, F10 and F19). Misdemeanor cases involving allegations of domestic violence shall be randomly assigned to either of the domestic violence courts (G16 and G17). Misdemeanors involving allegations of violations of traffic laws, with the exception of Operating a Vehicle While Intoxicated, shall be assigned to the Traffic Court (F13). Misdemeanors where the alleged offense occurred within the boundaries of the Community Court Project shall be assigned to the Community Court (F12).

¹ LR 49-CR2.2-1-(a) amended July 27, 1999.

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(e) If a case involving allegations of domestic violence parties to a civil protective order cases, the criminal cases shall be filed in the same courtroom as the civil protective order cases.

(f) ²In the event that a defendant has a Misdemeanor or D Felony Domestic Violence case, and that case is amended to include a class C Felony charge, that case shall stay in the Domestic Violence Court to which it was originally assigned.

LR49-CR2.3-101. CASE CONSOLIDATION

It shall be the policy of the Marion Superior Court, that wherever possible consistent with good case management principles, cases involving the same defendant shall be consolidated into one court for resolution of all of the pending cases.

(a) **Murder, A, B and C Felony Cases (hereinafter “Major Felony case”)**

Any subsequently filed Major Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

Any subsequently filed D Felony or Misdemeanor Case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

In the event the defendant has an open D Felony or Misdemeanor case pending in any criminal court and is subsequently charged with a Major Felony case, the pending D Felony or Misdemeanor case shall be transferred to the Major Felony Court.

In the event the defendant has an open probation case pending in any criminal court and is subsequently charged with a Major Felony case, the probation case shall be transferred to the Major Felony Court, unless the

probation case can be resolved without the resolution of the new Major Felony case.

“Pending” as defined herein means any existing Major Felony, D Felony or Misdemeanor case which is in pre-disposition status.

No classification of cases are exempt from consolidation under this subparagraph.

(b) D Felony Cases

Any subsequently filed Misdemeanor or Class D Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest existing Class D Felony case is pending.

In the event the defendant has an open Misdemeanor case in any criminal court and is subsequently charged with a D Felony case, the Misdemeanor case shall be transferred to the D Felony Court.

In the event the defendant has an open probation case pending in any D Felony or Misdemeanor Court and is subsequently charged with a D Felony

2 LR49-CR2.2-100 (f) Adopted by General Term 7/31/2007

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case, the probation case shall be transferred to the D Felony Court where the new case has been filed, unless the probation case can be resolved without the resolution of the new D Felony case.

“Pending” as defined herein means any existing Class D Felony or Misdemeanor case which is in pre-disposition status.

This rule shall not apply to Domestic Violence cases, cases assigned to Domestic Violence Courtrooms 16 and 17 or cases that are linked with a codefendant.

However, if one of the co-defendant’s is eligible for transfer to Court 8, per sub-sections (d) or (e), then the eligible co-defendant’s case may be severed and transferred to Court 8 without the non-eligible co-defendant(s) case(s).

(c) Misdemeanor Cases

Subject to the provisions of paragraphs (a) and (b) above, any subsequent Misdemeanor case filed against a defendant shall be assigned and/or transferred to the Court where the defendant’s oldest existing Misdemeanor case is pending with the exception that Court 13 (Traffic Court) shall not receive assignment or transfer of cases when Court 13 has the oldest pending case.

In the event the defendant has an open probation case pending in any Misdemeanor Court and is subsequently charged with a new Misdemeanor case, the probation case shall be transferred to the new Misdemeanor Court unless the probation case can be resolved without the resolution of the new Misdemeanor case.

Pending as defined herein means any existing Misdemeanor case which is in pre-disposition status.

This rule shall not apply to Domestic Violence cases, cases assigned to Domestic Violence Courtrooms 16 and 17, or cases that are linked with codefendants.

However, if one of the co-defendant’s is eligible for transfer to Court 8, per sub-sections (d) or (e), then the eligible co-defendant’s case may be severed and transferred to Court 8 without the non-eligible co-defendant(s) case(s).

(d) 3PAIR/Forensic Diversion, Mental Illness

All PAIR and Mental Illness Forensic Diversion matters will be transferred to Criminal Court 8. These cases will remain in Criminal 8 for disposition, if PAIR/Forensic Diversion even if unsuccessful.

(e) 4Mental Illness/MR/DD

Any D Felony or Misdemeanor case, in which the defendant's serious mental illness (Axis I, i.e. schizophrenia, bipolar, major depression) is a factor, and defendants with mental retardation and /or developmental disabilities, may be transferred to Criminal Court 8.

³LR49-CR2.3-101 (d) Adopted by the General Term 7/31/2007

⁴LR49-CR2.3-101 (e) Adopted by the General Term 7/31/2007

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(f) Other Considerations

In the event that a case involves both felony and misdemeanor offenses, pursuant to Administrative Rule 1, the case shall be considered a Felony case for the application of this rule.

It shall be the responsibility of the Prosecutor's Office Screening Department to provide a listing of all pending cases with the case filing documents to ensure that all case transfers can be made consistent with this rule. The judge of each room of the criminal division, by appropriate order entered of record may transfer and re-assign to any other room of the criminal division any cause pending in that room subject to acceptance by the receiving court. Further the Presiding Judge of the Criminal Division or the Executive Committee may order the transfer of cases from one court to another if the Presiding Judge or the Executive Committee finds that a transfer and reassignment of cases is necessary to provide for the speedy and fair administration of justice.

All cases received by the criminal division on change of venue from outside Marion County shall be assigned to a room within the division on a random basis by the same method used to assign cases of original jurisdiction in Marion County.

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be re-filed in the court where the case was originally docketed. All pleadings, petitions and motions shall be filed with the Clerk designated by the court at any time during filing hours established by the Clerk and the court and shall be accompanied by a proposed order. All orders submitted to the court shall be in sufficient number and shall be accompanied by postage paid envelopes addressed to each party or counsel of record. Service of orders on the Marion County Prosecutor and the Marion County Public Defender Agency may be through mailbox service established in each courtroom.